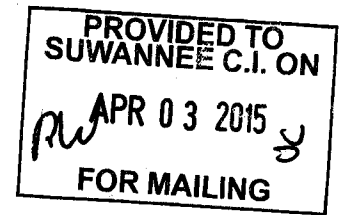


IN THE UNITED STATES DISTRICT COURT  
FOR THE UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

APR - 9 2015

MATTHEW J. DYKMAN  
CLERK

BYRON DEAN WALLER,  
Plaintiff,



CASE NO. 1:14-CV-000921-LH-KBM

V.

MICHAEL JAMES WALLER  
and PAULA WALLER,  
Defendants.

PLAINTIFF'S MOTION IN OPPOSITION TO DEFENDANTS'  
NOTICE OF COMPLETION OF BRIEFING

COMES NOW, Plaintiff Byron Dean Waller files this Motion in opposition to Defendant's Notice of Completion of Briefing. In support of this motion Plaintiff states as follows:

1.) Defendant's motion should not be granted because Plaintiff simply has not had enough time to respond. He was unaware of D.N.M. Local Rule Civ-7.4(e) until receipt of Defendant's motion. Plaintiff not being an attorney is unaware of Local Rules. Document 25, filed 3-30-15

2.) Plaintiff received Defendant's Motion for Summary Judgment and immediately requested access to the prison's law library. Because of nearly 1500 prisoners and only 5 Westlaw Computer Terminals, law library access is in demand. For examples, Plaintiff submitted requests for law library access on 2-21-15 and was scheduled for 3-10-15 and on 2-22-15 and was scheduled on 3-12-15. See Attached."

It took nearly three (3) weeks just to be scheduled for access to the prison law library, without any fault or lack of diligence on Plaintiff. More law library request are available, but more would just be repetitious.

3.) Plaintiff has simply not been able to file a meaningful response, he has only had access to a computer a few times, and that, has only occurred since March 10, 2015. Plaintiff has only had three (3) weeks to research summary judgment - less than 3 full hours on a computer terminal, not knowing or being trained in law, to be able to file a response to a motion by Defendants of this "MAGNITUDE", Plaintiff will simply need more time.

4.) A prisoner can only be scheduled law library access five (5) hours a week. Computer terminals are a "first come, first serve, basis". An actual race by prisoners to get a computer. Plaintiff is old, slow, and walks with a cane. He cannot compete with younger prisoners. Plus law library only contains "OLD LAW BOOKS" that a retired attorney donated. (computer access is 30 minutes a day)

5.) Defendants cited, Missouri Statutes and Case Law. And cited, New Mexico Statutes and Case Law, in their Motion for Summary Judgment. Plaintiff, "HAS NO ACCESS TO ANY OF THIS LAW". He cannot even form an opinion or intelligently investigate, research, or argue a law or case, contrary to Defendants cited cases, etc...

6.) FOR THE RECORD, Plaintiff does not have a fancy office, a desk, a computer, or 100's of current law books. Plaintiff does not even have a picnic table

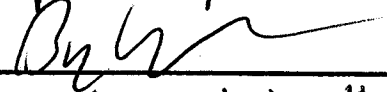
to write a motion on. He must take "NOTES" of anything important on the computer, "then write the document on his bed," this is all done in an open-bay dorm, with 85 other prisoners, with beds 30 inches apart. The noise and interruptions are excessive.

7.) The "URGENT NEED" for Defendants Motion for Summary Judgment to be granted, does not give Plaintiff the time required to file a meaningful response.

8.) Plaintiff has prepared an Application for Appointment of Counsel, (it's being typed). This Honorable Court should receive it in a couple weeks. There are "New Facts" alleged in this document where a reasonable jury could return a verdict for the Plaintiff.

WHEREFORE, Plaintiff prays Defendants Notice of Completion of Briefing not be granted. And, Allow Plaintiff a reasonable amount of time to respond, (given all the circumstances) to Defendants Motion for Complete Summary Judgment. Would this Honorable Court furnish Plaintiff, District of New Mexico Local Rules.


Respectfully Submitted



Byron Dean Weller # K06593  
 Suwannee C. I. - Annex  
 5964 U.S. Highway 90  
 Live Oak, Florida 32060

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a true and correct copy of the foregoing was placed in the hands of prison officials for mailing via United States Mail, to The Law Offices of Felker, Ish, Ritchie & Geer, P.A. Attn: Randall B. Felker at 911 Old Pecos Trail, Santa Fe, New Mexico 87505 on this 3 day of APRIL 2015.

  
Byron Dear Waller

# REQUEST

☒ Law Library

Byron Waller K06593 K11605 H/M 2-21-15

Please schedule me for law library

Sincerely

Byron Waller

K06593

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## RESPONSE

3/10

Law Lib

Black

MAR 02 2015

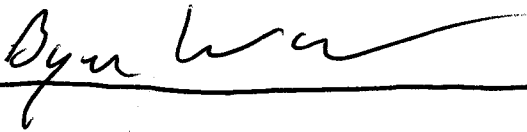
# REQUEST

☒ Law Library

Byron Waller K06593 K11605 H/M 2-22-15

Please schedule me for law library

Sincerely

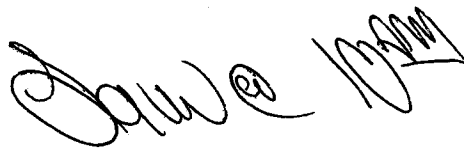


K06593

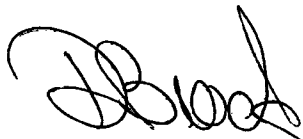
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RESPONSE

FEB 23 2015



3/12/15



MAR 03 2015

BYRON WALLER #K06593  
SUWANNEE C.I. ANNEX  
5964 U.S. Hwy 90  
LINE DAK, FL. 32060

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Institution  
Suwannee C.I.



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MATTHEW J. DYKMAN  
Clerk

LEGAL MAIL

UNITED STATES DISTRICT COURT  
District of New Mexico

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